



Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2010-0166]

Parts and Accessories Necessary for Safe Operation; Exemption Renewal for Bendix Commercial Vehicles Systems LLC

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: FMCSA renews an exemption that enables motor carriers to mount lane departure warning system cameras and collision mitigation system cameras lower in the windshield of a commercial motor vehicle (CMV) than is currently permitted by the Agency's regulations. The Agency has concluded that granting this exemption renewal will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption. However, the Agency requests comments on this issue, especially from anyone who believes this standard will not be maintained.

DATES: This decision is effective November 18, 2015. Comments must be received on or before [Insert 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) number FMCSA-2010-0166 by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001.
- *Hand Delivery:* Ground Floor, Room W12-140, DOT Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

- *Fax:* 1-202-493-2251.

Instructions: Each submission must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the “Public Participation” heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the “Privacy Act” heading for further information.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to Room W12-140, DOT Building, New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgement that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 USC 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

Public participation: The <http://www.regulations.gov> Web site is generally available 24 hours each day, 365 days each year. You may find electronic submission and retrieval help and guidelines under the “help” section of the <http://www.regulations.gov> Web site as well as the DOT’s <http://docketsinfo.dot.gov> Web site. If you would like notification that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Mr. Luke W. Loy, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, MC-PSV, (202) 366-0676, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315(b)(1), FMCSA may renew an exemption from the Federal Motor Carrier Safety Regulations for a two-year period if it finds “such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption” (49 CFR 381.305(a)).

Basis for Renewing Exemption

On November 18, 2011 (76 FR 71619), FMCSA published a notice of final disposition granting exemption applications from Con-way, Takata, and Iteris to allow the placement of lane departure warning system sensors lower in the windshield than is currently permitted by the Agency’s regulations. In 2011, Iteris completed the sale of its vehicle sensors business to Bendix Commercial Vehicles Systems LLC (Bendix), which continued to sell the Iteris-developed lane departure warning systems. In May 2013, Bendix applied for a renewal of the November 2011 exemption. On November 25, 2013, FMCSA published a notice renewing this exemption until November 18, 2015 (78 FR 70396). While the November 2011 exemption granted relief to motor carriers using only the Takata and Iteris lane departure warning systems, the November 2013 exemption renewal extended the scope of the exemption to encompass motor carriers using any lane departure warning system provided that the sensor that is mounted in the windshield is (1) the same size or smaller than the Takata and Bendix sensors, and (2) mounted in the windshield in accordance with the provisions of the original exemption. Bendix is seeking

renewal of the 2013 exemption, and requests that the scope of the exemption be extended to include its comparably-sized camera-based collision mitigation system.

The FMCSA has determined preliminarily that it is appropriate to renew the exemption for another two-year period pending a review of public comments in response to the application. The Agency believes that granting the exemption renewal to continue allowing the placement of lane departure warning system sensors lower in the windshield than is currently permitted by the Agency's regulations will provide a level of safety that is equivalent to, or greater than the level of safety achieved without the exemption because (1) based on the technical information available, there is no indication that the lane departure warning system sensors would obstruct drivers' views of the roadway, highway signs and surrounding traffic; (2) generally, trucks and buses have an elevated seating position that greatly improves the forward visual field of the driver, and any impairment of available sight lines would be minimal; and (3) the location within the top two inches of the area swept by the windshield wiper and out of the driver's normal sightline will be reasonable and enforceable at roadside. The Agency is unaware of any incidents wherein a crash involving vehicles equipped with these lane departure warning systems could be attributed to the minimal visual intrusion of the devices into the drivers' field of vision. In addition, the Agency believes that the use of lane departure warning systems – and collision mitigation systems – by fleets is likely to improve the overall level of safety to the motoring public.

Terms and Conditions for the Exemption

The Agency hereby grants the exemption for a two-year period, ending November 17, 2017. During the temporary exemption period, motor carriers using lane departure warning systems and collision mitigation systems with sensors measuring 2 inches by 3.5 inches or smaller must ensure that the sensors are mounted not more than 50 mm (2 inches) below the upper edge of the area swept by the windshield wipers, and outside the driver's sight lines to the

road and highway signs and signals. The exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) motor carriers and/or commercial motor vehicles fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Request for Comments

Interested parties possessing information that would demonstrate that CMVs operated by motor carriers using lane departure warning systems or collision mitigation systems are not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

Preemption

In accordance with 49 U.S.C. 31313(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

Issued on: November 30, 2015

T.F. Scott Darling, III
Acting Administrator

